

## DECLARATION AND POWER OF ATTORNEY FOR PATENT APPLICATION IN THE


As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to my name, and I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the INVENTION ENTITLED

ON AUG 17 2004  
PATENT & TRADEMARK OFFICE

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56. I hereby claim foreign priority benefits under 35 U.S.C. 119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate filed by me or my assignee disclosing the subject matter claimed in this application and having a filing date (1) before that of the application on which priority is claimed, or (2) if no priority claimed, before the filing date of this application:

I hereby claim domestic priority benefit under 35 U.S.C. 120/365 of the indicated United States applications listed below and PCT international applications listed above or below and, if this is a continuation-in-part (CIP ) application, insofar as the subject matter disclosed and claimed in this application is in addition to that disclosed in such prior applications, I acknowledge the duty to disclose all information known to me to be material to patentability as defined in 37 C.F.R. 1.56 which became available between the filing date of each such prior application and the national or PCT international filing date of this application:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

1. INVENTOR'S SIGNATURE:  Date May 6/07  
Inventor's Name (typed) Bradley A. SAVILLE Canada  
First Middle Initial Family Name Country of Citizenship  
Residence (City) Toronto, Ontario, Canada (State/Foreign Country)  
Department of Chemical Engineering and Applied Chemistry, University of Toronto, 200 College Street,  
Toronto, Ontario, Canada M5S 1A4 Post Office Address (Include Zip Code)

2. INVENTOR'S SIGNATURE: \_\_\_\_\_ Date \_\_\_\_\_  
 Inventor's Name (typed)     **Mikhail**    **I.**    **KHAVKINE**      
                                     First                    Middle Initial                    Family Name                    Country of Citizenship  
 Residence (City)     **Newmarket, Ontario, Canada**     (State/Foreign Country)  
**223 Surgeoner Crescent, Newmarket, Ontario, Canada L3X 2L1** Post Office Address (Include Zip Code)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT Application of  
Saville, et. al.

Group Art Unit: Unknown

U.S. Serial No. 10/797,019

Examiner: Unknown

Filed: March 11, 2004

Att. Docket No.: 95773-1439

For: ENHANCEMENT OF ENZYME ACTIVITY BY SELECTIVE PURIFICATION  
\* \* \* \* \*

**AFFIDAVIT PROVING CO-INVENTOR REFUSED TO EXECUTE APPLICATION  
PAPERS UNDER 37 C.F.R. § 1.47(a)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

I, Andrew Desbarats, declare and state as follows.

I am the Business Officer of Immortazyme Company (formerly Advanced Biochemical Corp.) located at #3-1100 Invicta Dr., Oakville, ON, L6H 2K9, Canada.

Mikhail Khavkine, a co-inventor of the above-identified application, has refused to execute the present application papers, including the inventor's oath. Below is the text of communications between Mr. Khavkine and I. Attached in Exhibit-A is a letter that was sent to Mr. Khavkine. I did not receive a response from Mr. Khavkine for this letter.

It is important to note that Immortazyme is in the process of using this invention to commercialize a new product in an extremely competitive market. The growth of this market and the size and strength of the competitors that are active in this market create an environment where confidentiality, before publication of the patents, is particularly important. For this reason, I requested that Mr. Khavkine read and sign the patent application documents in the presence of an Immortazyme employee. The location, time and duration of the meeting was to be decided by Mr. Khavkine, providing a reasonable opportunity for the co-inventor to carry-out his obligations.

The following is a chronology of communications between Mr. Khavkine and I in the matter of executing the present patent application. These notes were recorded by myself directly after each of the telephone conversations with Mr. Khavkine. In the case of e-mails and letters, a copy of the original is included.

**February 27<sup>th</sup>, 2004 – Telephone conversation between M. Khavkine and Andrew Desbarats**

**First communication regarding signing of the patent applications.**

“Telephone call to Mr. Khavkine requesting his signature on the Immortazyme Patent Applications numbered 1439 [present application] and 1440, that are due for US patent application and PCT application on March 13<sup>th</sup> 2004.

Mike [Khavkine] requested the patent documentation to read before signing it. Andrew indicated that Mr. Khavkine would be able to read the documents as soon as they had been prepared. The documents were to be prepared by the 9<sup>th</sup> of March.”

**March 10<sup>th</sup>, 2004 – Telephone conversation between M. Khavkine and Andrew Desbarats**

I informed Mr. Khavkine that the patent documents were ready to sign.

“Mr. Desbarats called Mikhail Khavkine at 1:20 pm. Mr. Desbarats indicated that the documentation was prepared and ready for signature. Mr. Desbarats suggested a meeting at a time and location that was convenient so that Mr. Khavkine could read the documents and sign them.

Mr. Khavkine indicated that it would be better for Mr. Desbarats to mail the documents to him. He would read them, consult with his lawyer and depending on the advice of his lawyer, he may or may not sign the documents.

Mr. Desbarats indicated that due to the sensitive nature of the inventions described by the documents, the company felt that it was important to ensure that the documents remained within the supervision of the company. Mr. Desbarats

indicated that Immortazyme would much prefer to have the documents read and signed in the presence of one of Immortazyme's employees.

Mikhail was adamant that he would not sign the documents without having a copy of the documents in his possession.

In view of the company's desire to maintain all copies of the document, Mr. Desbarats indicated that he would consult with our patent agent and others at the company to determine next steps since Mr. Khavkine refused to sign the documents under the conditions required by the company for purposes of privacy and confidentiality. Mr. Desbarats agreed to get back to Mikhail within the next few days with a plan under which we could arrange signing of the documents."

**March 12th, 2004 – e-mail message received by Andrew Desbarats from Mikhail Khavkine.**

Dear Mr. Desbarats:

Unfortunately, I won't be available tomorrow at my home #. I am going to be away for the next three weeks. Please, feel free to communicate using a lettermail. I promise you fast response and complete attention to the correspondence. Please, be advised that all further communication will be carried on in writing. No phone calls please.

Truly,

Dr. Mikhail Khavkine.

**March 16<sup>th</sup>, 2004 – Letter sent to Mikhail Khavkine by registered mail, requesting again that the patent documents be signed. Please see Exhibit A.**

There has been no response to this letter and no further communication with Mr. Khavkine. Mr. Desbarats has not been able to reach Mr. Khavkine by telephone.

Mr. Khavkine has refused to sign the required patent application documents. Immortazyme has provided Mr. Khavkine with reasonable requests to arrange for the signing of the required documents in light of the need for confidentiality in order to be successful in commercializing the technology.

I declare further that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Andrew Desbarats Place Oakville, ON Date July 14, 2004  
Andrew Desbarats  
Business Officer, Immortazyme

Sworn before me  
at the Town of Oakville,  
in the Province of Ontario,  
this 14<sup>th</sup> day of July, 2004

A circular notary seal with a scalloped edge, partially obscured by the signature and the text below it.

Haxell

A Commissioner of Oaths, Solicitor, Notary.

**Haxell & Smith**  
Lawyers Practising in Association  
1276 Cornwall Road, Unit C  
Oakville, Ontario  
L6J 7W5



March 16, 2004

Mikhail Khavkine  
257 Roxton Rd.  
Oakville, ON  
L6H 7K3

This is Exhibit "A" to the  
Affidavit of *Andrew Desbarats*  
SWORN before me, this *14* day  
of *July* 2004  
*[Signature]*  
A Commissioner, etc.

Dear Mr. Khavkine

Pursuant to our telephone conversations that took place on February 27<sup>th</sup> and March 10<sup>th</sup> regarding the signing of US and PCT patent applications, Immortazyme would like to arrange for you to read and sign the necessary documents. These patent applications (titled "Enhancement of Enzyme Activity by Selective Purification" and "Enhancement of Enzyme Activity Through Purification and Immobilization") require signatures from all inventors. Since both you and Dr. Saville are the inventors listed on the patents mentioned above, Immortazyme is requesting signatures from both of you.

In our telephone conversation on March 10<sup>th</sup>, you had mentioned that you were not willing to meet with us to read and sign the documents. We are hoping you will reconsider in order that the patent applications can be submitted in a timely manner. While your e-mail, dated March 11<sup>th</sup> at 4:27 pm, indicated that you would be out of town for 3 weeks, and would not be available at your home telephone number as of March 12<sup>th</sup>, we are hoping you will sign the documents upon your return to Oakville.

Please do not hesitate to contact me by telephone or mail to arrange a suitable time to meet.

Sincerely,

A handwritten signature in cursive script that reads "Andrew Desbarats".

Andrew Desbarats  
Business Officer